

108TH CONGRESS  
1ST SESSION

# H. R. 1861

To help protect the public against the threat of chemical attacks.

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## IN THE HOUSE OF REPRESENTATIVES

APRIL 29, 2003

Mr. PALLONE (for himself, Mr. MARKEY, Mr. BROWN of Ohio, Mr. HOLT, and Ms. JACKSON-LEE of Texas) introduced the following bill; which was referred to the Committee on Energy and Commerce

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## A BILL

To help protect the public against the threat of chemical attacks.

1 *Be it enacted by the Senate and House of Representa-*  
2 *tives of the United States of America in Congress assembled,*

3 **SECTION 1. SHORT TITLE; TABLE OF CONTENTS.**

4 (a) SHORT TITLE.—This Act may be cited as the  
5 “Chemical Security Act of 2003”.

6 (b) TABLE OF CONTENTS.—The table of contents is  
7 as follows:

- Sec. 1. Short title; table of contents.
- Sec. 2. Findings.
- Sec. 3. Definitions.
- Sec. 4. Designation of and requirements for high priority categories.
- Sec. 5. Disseminating information on inherently safer technologies.
- Sec. 6. Employee and first responder training.
- Sec. 7. Enforcement.

Sec. 8. Recordkeeping and entry.

Sec. 9. Penalties.

Sec. 10. No effect on requirements under other law.

Sec. 11. Authorization of appropriations.

1 **SEC. 2. FINDINGS.**

2 Congress finds that—

3 (1) the chemical industry is a crucial part of  
4 the critical infrastructure of the United States—

5 (A) in its own right; and

6 (B) because that industry supplies re-  
7 sources essential to the functioning of other  
8 critical infrastructures;

9 (2) the possibility of terrorist and criminal at-  
10 tacks on chemical sources (such as industrial facili-  
11 ties) poses a serious threat to public health, safety,  
12 and welfare, critical infrastructure, national security,  
13 and the environment;

14 (3) the possibility of theft of dangerous chemi-  
15 cals from chemical sources for use in terrorist at-  
16 tacks poses a further threat to public health, safety,  
17 and welfare, critical infrastructure, national security,  
18 and the environment; and

19 (4) there are significant opportunities to pre-  
20 vent theft from, and criminal attack on, chemical  
21 sources and reduce the harm that such acts would  
22 produce by—

1 (A)(i) reducing usage and storage of  
2 chemicals by changing production methods and  
3 processes; and

4 (ii) employing inherently safer technologies  
5 in the manufacture, transport, and use of  
6 chemicals;

7 (B) enhancing secondary containment and  
8 other existing mitigation measures; and

9 (C) improving security.

10 **SEC. 3. DEFINITIONS.**

11 In this Act:

12 (1) ADMINISTRATOR.—The term “Adminis-  
13 trator” means the Administrator of the Environ-  
14 mental Protection Agency.

15 (2) CHEMICAL SOURCE.—The term “chemical  
16 source” means a stationary source (as defined in  
17 section 112(r)(2) of the Clean Air Act (42 U.S.C.  
18 7412(r)(2))) that contains a substance of concern.

19 (3) COVERED SUBSTANCE OF CONCERN.—The  
20 term “covered substance of concern” means a sub-  
21 stance of concern that, in combination with a chem-  
22 ical source and other factors, is designated as a high  
23 priority category by the Administrator under section  
24 4(a)(1).

1           (4) EMPLOYEE.—The term “employee”  
2 means—

3           (A) a duly recognized collective bargaining  
4 representative at a chemical source; or

5           (B) in the absence of such a representa-  
6 tive, other appropriate personnel.

7           (5) FIRST RESPONDER.—The term “first re-  
8 sponder” includes firefighters and emergency med-  
9 ical personnel.

10          (6) SECRETARY.—The term “Secretary” means  
11 the Secretary of the Homeland Security.

12          (7) SAFER DESIGN AND MAINTENANCE.—The  
13 term “safer design and maintenance” includes, with  
14 respect to a chemical source that is within a high  
15 priority category designated under section 4(a)(1),  
16 implementation, to the extent practicable, of the  
17 practices of—

18           (A) preventing or reducing the vulner-  
19 ability of the chemical source to a release of a  
20 covered substance of concern through use of in-  
21 herently safer technology;

22           (B) reducing any vulnerability of the chem-  
23 ical source to a release of a covered substance  
24 of concern that remains after the measures de-  
25 scribed in subparagraph (A) through use of

1 well-maintained secondary containment, control,  
2 or mitigation equipment; and

3 (C) reducing the potential consequences of  
4 any vulnerability of the chemical source to a re-  
5 lease of a covered substance of concern through  
6 the use of buffer zones between the chemical  
7 source and surrounding populations (including  
8 buffer zones between the chemical source and  
9 residences, schools, hospitals, senior centers,  
10 shopping centers and malls, sports and enter-  
11 tainment arenas, public roads and transpor-  
12 tation routes, and other population centers).

13 (8) SECURITY MEASURE.—

14 (A) IN GENERAL.—The term “security  
15 measure” means an action carried out to in-  
16 crease the security of a chemical source.

17 (B) INCLUSIONS.—The term “security  
18 measure”, with respect to a chemical source, in-  
19 cludes—

20 (i) employee training and background  
21 checks;

22 (ii) the limitation and prevention of  
23 access to controls of the chemical source;

24 (iii) protection of the perimeter of the  
25 chemical source;

1 (iv) the installation and operation of  
2 an intrusion detection sensor; and

3 (v) a measure to increase computer or  
4 computer network security.

5 (9) SUBSTANCE OF CONCERN.—(A) The term  
6 “substance of concern” means—

7 (i) any regulated substance (as defined in  
8 section 112(r) of the Clean Air Act (42 U.S.C.  
9 7412(r))); and

10 (ii) any substance designated by the Ad-  
11 ministrator under section 4(a).

12 (B) The term does not include liquefied petro-  
13 leum gas that is used as fuel or held for sale as fuel  
14 at a retail facility as described in section  
15 112(r)(4)(B) of the Clean Air Act (42 U.S.C.  
16 7412(r)(4)(B)).

17 (10) UNAUTHORIZED RELEASE.—The term  
18 “unauthorized release” means—

19 (A) a release from a chemical source into  
20 the environment of a covered substance of con-  
21 cern that is caused, in whole or in part, by a  
22 criminal act;

23 (B) a release into the environment of a  
24 covered substance of concern that has been re-

1 moved from a chemical source, in whole or in  
2 part, by a criminal act; and

3 (C) a release or removal from a chemical  
4 source of a covered substance of concern that is  
5 unauthorized by the owner or operator of the  
6 chemical source.

7 (11) USE OF INHERENTLY SAFER TECH-  
8 NOLOGY.—

9 (A) IN GENERAL.—The term “use of in-  
10 herently safer technology”, with respect to a  
11 chemical source, means use of a technology,  
12 product, raw material, or practice that, as com-  
13 pared with the technologies, products, raw ma-  
14 terials, or practices currently in use—

15 (i) reduces or eliminates the possi-  
16 bility of a release of a substance of concern  
17 from the chemical source prior to sec-  
18 ondary containment, control, or mitigation;  
19 and

20 (ii) reduces or eliminates the threats  
21 to public health and the environment asso-  
22 ciated with a release or potential release of  
23 a substance of concern from the chemical  
24 source.

1 (B) INCLUSIONS.—The term “use of inher-  
2 ently safer technology” includes input substi-  
3 tution, catalyst or carrier substitution, process  
4 redesign (including reuse or recycling of a sub-  
5 stance of concern), product reformulation, pro-  
6 cedure simplification, and technology modifica-  
7 tions that meet the criteria in paragraph  
8 (11)(A) and—

9 (i) use less hazardous substances or  
10 benign substances;

11 (ii) use a smaller quantity of covered  
12 substances of concern;

13 (iii) reduce hazardous pressures or  
14 temperatures;

15 (iv) reduce the possibility and poten-  
16 tial consequences of equipment failure and  
17 human error;

18 (v) improve inventory control and  
19 chemical use efficiency; and

20 (vi) reduce or eliminate storage,  
21 transportation, handling, disposal, and dis-  
22 charge of substances of concern.



1 **SEC. 4. DESIGNATION OF AND REQUIREMENTS FOR HIGH**  
2 **PRIORITY CATEGORIES.**

3 (a) DESIGNATION AND REGULATION OF HIGH PRI-  
4 ORITY CATEGORIES BY THE ADMINISTRATOR.—

5 (1) IN GENERAL.—Not later than 1 year after  
6 the date of enactment of this Act, the Administrator,  
7 in consultation with the Secretary and State and  
8 local agencies responsible for planning for and re-  
9 sponding to unauthorized releases and providing  
10 emergency health care, shall promulgate regulations  
11 to designate certain combinations of chemical  
12 sources and substances of concern as high priority  
13 categories based on the severity of the threat posed  
14 by an unauthorized release from the chemical  
15 sources.

16 (2) FACTORS TO BE CONSIDERED.—In desig-  
17 nating high priority categories under paragraph (1)  
18 the Administrator, in consultation with the Sec-  
19 retary, the United States Chemical Safety and Haz-  
20 ard Investigation Board, and State and local agen-  
21 cies described in paragraph (1)—

22 (A) the severity of the harm that could be  
23 caused by an unauthorized release;

24 (B) the proximity to population centers;

25 (C) the threats to national security;

26 (D) the threats to critical infrastructure;

1 (E) threshold quantities of substances of  
2 concern that pose a serious threat; and

3 (F) such other safety or security factors as  
4 the Administrator, in consultation with the Sec-  
5 retary, determines to be appropriate.

6 (3) REQUIREMENTS FOR HIGH PRIORITY CAT-  
7 EGORIES.—

8 (A) IN GENERAL.—Not later than 1 year  
9 after the date of enactment of this Act, the Ad-  
10 ministrator, in consultation with the Secretary,  
11 the United States Chemical Safety and Hazard  
12 Investigation Board, and State and local agen-  
13 cies described in paragraph (1), shall promul-  
14 gate regulations to require each owner and each  
15 operator of a chemical source that is within a  
16 high priority category designated under para-  
17 graph (1), in consultation with local law en-  
18 forcement, first responders, and employees,  
19 to—

20 (i) conduct an assessment of the vul-  
21 nerability of the chemical source to a ter-  
22 rorist attack or other unauthorized release;

23 (ii) using appropriate hazard assess-  
24 ment techniques, identify hazards that may

1 result from an unauthorized release of a  
2 covered substance of concern; and

3 (iii) prepare a prevention, prepared-  
4 ness, and response plan that incorporates  
5 the results of those vulnerability and haz-  
6 ard assessments.

7 (B) ACTIONS AND PROCEDURES.—A pre-  
8 vention, preparedness, and response plan re-  
9 quired under subparagraph (A)(iii) shall in-  
10 clude—

11 (i) actions and procedures, including  
12 safer design and maintenance of the chem-  
13 ical source, to eliminate or significantly  
14 lessen the potential consequences of an un-  
15 authorized release of a covered substance  
16 of concern;

17 (ii) a specific numeric goal for the  
18 percent by which the size of the vulner-  
19 ability zone, as measured by distance to an  
20 endpoint, will be reduced, relative to the  
21 size of the vulnerability zone reported in  
22 the offsite consequence analysis most re-  
23 cently submitted pursuant to section  
24 112(r) of the Clean Air Act (42 U.S.C.  
25 7412(r));

1 (iii) such security measures as are  
2 necessary—

3 (I) to reduce vulnerability of the  
4 chemical source to release of a covered  
5 substance of concern until actions and  
6 procedures planned under subpara-  
7 graph (B)(i) have been implemented;  
8 and

9 (II) to reduce vulnerability of the  
10 chemical source to release of a covered  
11 substance of concern that remains  
12 after actions and procedures planned  
13 under subparagraph (B)(i) have been  
14 implemented; and

15 (iv) for emergency response plans, an  
16 evaluation of the adequacy of evacuation  
17 plans for the population living within the  
18 vulnerability zone.

19 (C) THREAT INFORMATION.—To the max-  
20 imum extent permitted by applicable authorities  
21 and the interests of national security, the Sec-  
22 retary, in consultation with the Administrator,  
23 shall provide owners and operators of chemical  
24 sources with threat information relevant to the

1 assessments and plans required under sub-  
2 section (b).

3 (4) REVIEW AND REVISIONS.—Not later than 5  
4 years after the date of promulgation of regulations  
5 under each of paragraphs (1) and (3), the Adminis-  
6 trator, in consultation with the Secretary, shall re-  
7 view the regulations and make any necessary revi-  
8 sions.

9 (5) ADDITION OF SUBSTANCES OF CONCERN.—  
10 For the purpose of designating high priority cat-  
11 egories under paragraph (1) or any subsequent revi-  
12 sion of the regulations promulgated under paragraph  
13 (1), the Administrator, in consultation with the Sec-  
14 retary, may designate additional substances that  
15 pose a serious threat as substances of concern.

16 (b) CERTIFICATION.—

17 (1) VULNERABILITY AND HAZARD ASSESS-  
18 MENTS.—Not later than 1 year after the date of  
19 promulgation of regulations under subsection (a)(3),  
20 each owner and each operator of a chemical source  
21 that is within a high priority category designated  
22 under subsection (a)(1) shall—

23 (A) certify to the Administrator that the  
24 chemical source has conducted assessments in  
25 accordance with the regulations; and

1 (B) submit to the Administrator written  
2 copies of the assessments.

3 (2) PREVENTION, PREPAREDNESS, AND RE-  
4 SPONSE PLANS.—(A) Not later than 18 months  
5 after the date of promulgation of regulations under  
6 subsection (a)(3), the owner or operator shall certify  
7 to the Administrator that the chemical source has  
8 completed a prevention, preparedness, and response  
9 plan that incorporates the results of the assessments  
10 and complies with the regulations.

11 (B) Such certification shall include—

12 (i) the goal for reducing the size of the vul-  
13 nerability zone, described in section  
14 (a)(3)(B)(ii);

15 (ii) a general description of each option  
16 considered, within each element of safer design  
17 and maintenance, in developing the prevention,  
18 preparedness, and response plans;

19 (iii) a general description of each option  
20 selected for implementation; and

21 (iv) for options not implemented, an indi-  
22 cation of the reason(s).

23 (3) 5-YEAR REVIEW.—Not later than 5 years  
24 after each of the dates of submission of a copy of  
25 an assessment under paragraph (1) and a plan

1 under paragraph (2), and not less often than every  
2 3 years thereafter, the owner or operator of the  
3 chemical source covered by the assessment or plan,  
4 in coordination with local law enforcement and first  
5 responders, shall—

6 (A) review the adequacy of the assessment  
7 or plan, as the case may be; and

8 (B)(i) certify to the Administrator that the  
9 chemical source has completed the review; and

10 (ii) as appropriate, submit to the Adminis-  
11 trator any changes to the assessment or plan.

12 (4) PROTECTION OF INFORMATION.—

13 (A) DISCLOSURE EXEMPTION.—Except  
14 with respect to certifications specified in para-  
15 graphs (1) through (3) of this subsection and  
16 section 5(a), all information provided to the Ad-  
17 ministrator under this subsection, and all infor-  
18 mation derived from that information, shall be  
19 exempt from disclosure under section 552 of  
20 title 5, United States Code.

21 (B) DEVELOPMENT OF PROTOCOLS.—Not  
22 later than 1 year after the date of enactment of  
23 this Act, the Administrator, in consultation  
24 with the Secretary, shall develop such protocols  
25 as are necessary to protect the copies of the as-

1        assessments and plans required to be submitted  
2        under this subsection (including the information  
3        contained in those assessments and plans) from  
4        unauthorized disclosure. Such protocols shall  
5        ensure that—

6                (i) each copy of such assessment or  
7                plan, and all information contained in or  
8                derived from the assessment or plan, is  
9                kept in a secure location;

10               (ii) only individuals designated by the  
11               Administrator may have access to the cop-  
12               ies of the assessments or plans; and

13               (iii) no copy of an assessment or plan,  
14               or part of an assessment or plan, or infor-  
15               mation contained in or derived from an as-  
16               sessment or plan shall be available to any-  
17               one other than an individual designated by  
18               the Administrator.

19        At the earliest possible time prior to 1 year  
20        after the date of enactment of this Act, the Ad-  
21        ministrator shall complete the development of  
22        such protocols for the purpose of having them  
23        in place prior to receiving any assessment or  
24        plan.



1 (C) OFFICER OR EMPLOYEES OF THE  
2 U.S.—An individual referred to in paragraph  
3 (B)(ii) who is an officer or employee of the  
4 United States may discuss the contents of an  
5 assessment or plan with a State or local official.

6 **SEC. 5. DISSEMINATING INFORMATION ON INHERENTLY**  
7 **SAFER TECHNOLOGIES.**

8 (a) INHERENTLY SAFER TECHNOLOGIES CLEARING-  
9 HOUSE.—

10 (1) AUTHORITY.—The Administrator shall es-  
11 tablish a publicly available clearinghouse to compile  
12 and disseminate information on the use and avail-  
13 ability of inherently safer technologies.

14 (2) INCLUSIONS.—The clearinghouse shall in-  
15 clude information on—

16 (A) general and specific types of inherently  
17 safer technologies;

18 (B) combinations of covered sources and  
19 substances of concern for which the inherently  
20 safer technologies could be appropriate;

21 (C) the scope of current use and avail-  
22 ability of the technologies;

23 (D) the costs and cost savings resulting  
24 from inherently safer technologies;

25 (E) technological transfer;

1 (F) the availability of technical assistance;

2 (G) business practices that enable or en-  
3 courage inherently safer technologies;

4 (H) current users of inherently safer tech-  
5 nologies; and

6 (I) such other information as the Adminis-  
7 trator deems appropriate.

8 (3) COLLECTION OF INFORMATION.—The Ad-  
9 ministrator shall collect information for the clearing-  
10 house—

11 (A) from documents submitted by owners  
12 or operators pursuant to this Act;

13 (B) by surveying owners or operators who  
14 have de-registered their facilities from the re-  
15 quirements of 40 CFR part 68; or

16 (C) through such other methods as the Ad-  
17 ministrator deems appropriate.

18 (4) PUBLIC AVAILABILITY.—Information avail-  
19 able publicly through the clearinghouse shall not  
20 identify specific facilities by name.

21 (b) TECHNOLOGY TRANSITION FUND.—

22 (1) ESTABLISHMENT.—The Administrator and  
23 the Secretary of Energy shall establish and admin-  
24 ister a fund to be known as the “Technology Transi-

tion Fund”, consisting of the amount transferred to the Fund under paragraph (3)(A).

(2) USE OF AMOUNTS IN FUND.—Amounts in the Fund established under paragraph(1) shall be used by the Administrator and the Secretary to provide grants to chemical facilities that demonstrate financial hardship to assist those chemical facilities in implementing inherently safer technologies.

(3) FUNDING.—

(A) IN GENERAL.—Notwithstanding any other provision of law, out of any funds in the Treasury not otherwise appropriated, the Secretary of the Treasury shall transfer to the Fund, for use by the Secretary and the Administrator in carrying out this section, not later than 30 days after the date of enactment of this Act, such sums as are necessary.

(B) RECEIPT AND ACCEPTANCE.—The Administrator and Secretary shall be entitled to receive, shall accept, and shall use to carry out this subsection the funds transferred to the Fund under subparagraph (A), without further appropriation.

1 (C) AVAILABILITY OF FUNDS.—Funds  
2 transferred under subparagraph (A) shall re-  
3 main available until expended.

4 **SEC. 6. EMPLOYEE AND FIRST RESPONDER TRAINING.**

5 (a) AUTHORITY.—The Administrator shall make  
6 grants to provide for training of first responders and of  
7 employees at chemical sources.

8 (b) ADMINISTRATION.—The administrator may enter  
9 into agreements with the National Institute for Environ-  
10 mental Health Sciences to administer grants made under  
11 this section.

12 (c) PURPOSES.—Grants made under this subsection  
13 shall provide for training and education of first responders  
14 or employees at covered sources in—

15 (1) identifying opportunities to reduce or sig-  
16 nificantly eliminate the vulnerability of a chemical  
17 source to a release of a substance of concern  
18 through the use of inherently safer technologies; or

19 (2) appropriate emergency response procedures.

20 (d) GRANT RECIPIENTS.—Grants shall be awarded to  
21 nonprofit organizations which demonstrate experience in  
22 implementing and operating worker health and safety or  
23 first responder training and education programs.

24 (e) FUNDING.—Notwithstanding any other provision  
25 of law, out of any funds in the Treasury not otherwise

1 appropriated, the Secretary of the Treasury shall transfer  
2 to the Fund, for use in carrying out this section, not later  
3 than 30 days after the date of enactment of this Act, such  
4 sums as are necessary.

5 **SEC. 7. ENFORCEMENT.**

6 (a) REVIEW OF PLANS.—

7 (1) IN GENERAL.—The Administrator, in con-  
8 sultation with the Secretary, shall review each as-  
9 sessment and plan submitted under section 4(b) to  
10 determine the compliance of the chemical source cov-  
11 ered by the assessment or plan with regulations pro-  
12 mulgated under paragraphs (1) and (3) of section  
13 4(a).

14 (2) CERTIFICATION OF COMPLIANCE.—

15 (A) IN GENERAL.—The Administrator  
16 shall certify in writing each determination of  
17 the Administrator under paragraph (1).

18 (B) INCLUSIONS.—A certification of the  
19 Administrator shall include a checklist indi-  
20 cating consideration by a chemical source of the  
21 use of 3 elements of safer design and mainte-  
22 nance described in subparagraphs (A) through  
23 (C) of section 3(7).

24 (C) EARLY COMPLIANCE.—

1 (i) IN GENERAL.—The Administrator,  
2 in consultation with the Secretary, shall—

3 (I) before the date of publication  
4 of proposed regulations under section  
5 4(a)(3), review each assessment or  
6 plan submitted to the Administrator  
7 under section 4(b); and

8 (II) before the date of promulga-  
9 tion of final regulations under section  
10 4(a)(3), determine whether each such  
11 assessment or plan meets the con-  
12 sultation, planning, and assessment  
13 requirements applicable to high pri-  
14 ority categories under section 4(a)(3).

15 (ii) AFFIRMATIVE DETERMINATION.—  
16 If the Administrator, in consultation with  
17 the Secretary, makes an affirmative deter-  
18 mination under clause (i)(II), the Adminis-  
19 trator shall certify compliance of an assess-  
20 ment or plan described in that clause with-  
21 out requiring any revision of the assess-  
22 ment or plan.

23 (D) SCHEDULE FOR REVIEW AND CERTIFI-  
24 CATION.—

1 (i) IN GENERAL.—The Administrator,  
2 after taking into consideration the factors  
3 described in section 4(a)(2), shall establish  
4 a schedule for the review and certification  
5 of assessments and plans submitted under  
6 section 4(b).

7 (ii) DEADLINE FOR COMPLETION.—  
8 Not later than 3 years after the deadlines  
9 for the submission of assessments and  
10 plans under paragraph (1) or (2), respec-  
11 tively, of section 4(b), the Administrator  
12 shall complete the review and certification  
13 of all assessments and plans submitted  
14 under those sections.

15 (b) COMPLIANCE ASSISTANCE.—

16 (1) DEFINITION OF DETERMINATION.—In this  
17 subsection, the term “determination” means a deter-  
18 mination by the Administrator that, with respect to  
19 an assessment or plan described in section 4(b)—

20 (A) the assessment or plan does not com-  
21 ply with regulations promulgated under para-  
22 graphs (1) and (3) of section 4(a); or

23 (B)(i) a threat exists beyond the scope of  
24 the submitted plan; or

1 (ii) current implementation of the plan is  
2 insufficient to address—

3 (I) the results of an assessment of a  
4 source; or

5 (II) a threat described in clause (i).

6 (2) DETERMINATION BY ADMINISTRATOR.—If  
7 the Administrator, after consultation with the Sec-  
8 retary, makes a determination, the Administrator  
9 shall—

10 (A) notify the chemical source of the deter-  
11 mination; and

12 (B) provide such advice and technical as-  
13 sistance, in coordination with the Secretary and  
14 the United States Chemical Safety and Hazard  
15 Investigation Board, as is appropriate—

16 (i) to bring the assessment or plan of  
17 a chemical source described in section 4(b)  
18 into compliance; or

19 (ii) to address any threat described in  
20 clause (i) or (ii) of paragraph (1)(B).

21 (c) COMPLIANCE ORDERS.—

22 (1) IN GENERAL.—If, after the date that is 30  
23 days after the later of the date on which the Admin-  
24 istrator first provides assistance, or a chemical  
25 source receives notice, under subsection (b)(2)(B), a



1 chemical source has not brought an assessment or  
2 plan for which the assistance is provided into com-  
3 pliance with regulations promulgated under para-  
4 graphs (1) and (3) of section 4(a), or the chemical  
5 source has not complied with an entry or informa-  
6 tion request under section 6, the Administrator may  
7 issue an order directing compliance by the chemical  
8 source.

9 (2) NOTICE AND OPPORTUNITY FOR HEAR-  
10 ING.—An order under paragraph (1) may be issued  
11 only after notice and opportunity for a hearing.

12 (d) ABATEMENT ACTION.—

13 (1) IN GENERAL.—Notwithstanding a certifi-  
14 cation under section 5(a)(2), if the Secretary, in  
15 consultation with local law enforcement officials and  
16 first responders, determines that a threat of a ter-  
17 rorist attack exists that is beyond the scope of a  
18 submitted prevention, preparedness, and response  
19 plan of 1 or more chemical sources, or current im-  
20 plementation of the plan is insufficient to address  
21 the results of an assessment of a source or a threat  
22 described in subsection (b)(1)(B)(i), the Secretary  
23 shall notify each chemical source of the elevated  
24 threat.

1           (2) INSUFFICIENT RESPONSE.—If the Secretary  
2       determines that a chemical source has not taken ap-  
3       propriate action in response to a notification under  
4       paragraph (1), the Secretary shall notify the chem-  
5       ical source, the Administrator, and the Attorney  
6       General that actions taken by the chemical source in  
7       response to the notification are insufficient.

8           (3) RELIEF.—

9           (A) IN GENERAL.—On receipt of a notifi-  
10       cation under paragraph (2), the Administrator  
11       or the Attorney General may secure such relief  
12       as is necessary to abate a threat described in  
13       paragraph (1), including such orders as are  
14       necessary to protect public health or welfare.

15          (B) JURISDICTION.—The district court of  
16       the United States for the district in which a  
17       threat described in paragraph (1) occurs shall  
18       have jurisdiction to grant such relief as the Ad-  
19       ministrator or Attorney General requests under  
20       subparagraph (A).

21   **SEC. 8. RECORDKEEPING AND ENTRY.**

22       (a) RECORDS MAINTENANCE.—A chemical source  
23       that is required to certify to the Administrator assess-  
24       ments and plans under section 4 shall maintain on the

1 premises of the chemical source a current copy of those  
2 assessments and plans.

3 (b) RIGHT OF ENTRY.—In carrying out this Act, the  
4 Administrator (or an authorized representative of the Ad-  
5 ministrator), on presentation of credentials—

6 (1) shall have a right of entry to, on, or  
7 through any premises of an owner or operator of a  
8 chemical source described in subsection (a) or any  
9 premises in which any records required to be main-  
10 tained under subsection (a) are located; and

11 (2) may at reasonable times have access to, and  
12 may copy, any records, reports, or other information  
13 described in subsection (a).

14 (c) INFORMATION REQUESTS.—In carrying out this  
15 Act, the Administrator may require any chemical source  
16 to provide such information as is necessary to—

17 (1) enforce this Act; and

18 (2) promulgate or enforce regulations under  
19 this Act.

20 **SEC. 9. PENALTIES.**

21 (a) CIVIL PENALTIES.—Any owner or operator of a  
22 chemical source that violates, or fails to comply with, any  
23 order issued may, in an action brought in United States  
24 district court, be subject to a civil penalty of not more

1 than \$25,000 for each day in which such violation occurs  
2 or such failure to comply continues.

3 (b) CRIMINAL PENALTIES.—Any owner or operator  
4 of a chemical source that knowingly violates, or fails to  
5 comply with, any order issued shall—

6 (1) in the case of a first violation or failure to  
7 comply, be fined not less than \$2,500 nor more than  
8 \$25,000 per day of violation, imprisoned not more  
9 than 1 year, or both; and

10 (2) in the case of a subsequent violation or fail-  
11 ure to comply, be fined not more than \$50,000 per  
12 day of violation, imprisoned not more than 2 years,  
13 or both.

14 (c) ADMINISTRATIVE PENALTIES.—

15 (1) PENALTY ORDERS.—If the amount of a civil  
16 penalty determined under subsection (a) does not ex-  
17 ceed \$125,000, the penalty may be assessed in an  
18 order issued by the Administrator.

19 (2) NOTICE AND HEARING.—Before issuing an  
20 order described in paragraph (1), the Administrator  
21 shall provide to the person against which the penalty  
22 is to be assessed—

23 (A) written notice of the proposed order;  
24 and

1 (B) the opportunity to request, not later  
2 than 30 days after the date on which the notice  
3 is received by the person, a hearing on the pro-  
4 posed order.

5 **SEC. 10. NO EFFECT ON REQUIREMENTS UNDER OTHER**  
6 **LAW.**

7 Nothing in this Act affects any duty or other require-  
8 ment imposed under any other Federal or State law.

9 **SEC. 11. AUTHORIZATION OF APPROPRIATIONS.**

10 There are authorized to be appropriated such sums  
11 as are necessary to carry out this Act.

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